

B.L.H. asks the Utah Labor Commission to review Administrative Law Judge Sessions' dismissal of Ms. H.'s claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12 and Utah Code Ann. §34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

Ms. H. filed an application with the Commission on June 27, 2002, seeking workers' compensation benefits from Community Treatment Alternatives and its workers' compensation carrier, Workers Compensation Fund (referred to jointly hereafter as "CTA"). In her application, Ms. H. alleged injuries to her face and neck in a work accident on September 28, 2001. She also alleged the accident aggravated her preexisting migraine headaches.

Judge Eblen held an evidentiary hearing on Ms. H.'s claim on April 15, 2003, and then issued an interim order on September 17, 2003. In summary, Judge Eblen referred the medical aspects of Ms. H.'s claim to a medical panel. To facilitate the medical panel's evaluation, Judge Eblen ordered Ms. H. to obtain and submit certain medical records to the Commission within 30 days.

Thereafter, no action was taken by anyone on Ms. H.'s claim, and Ms. H. did not submit the medical records to the Commission. Judge Eblen subsequently resigned from her position with the Commission and Judge Sessions assumed responsibility over Ms. H.'s claim. On March 30, 2005, on his own motion and without prior notice to the parties, Judge Sessions summarily dismissed Ms. H.'s claim on the grounds she failed to comply with Judge Eblen's order to submit the medical records.

Ms. H. filed a timely motion for Commission review of Judge Sessions' decision, pointing out that she had not been aware of any outstanding obligation to provide additional medical records and arguing it was unfair for her claim to be dismissed without notice of such omission. This matter was transferred to the Labor Commission for decision on April 27, 2005.

DISCUSSION

It is clear from Judge Eblen's interim order of September 17, 2003, that Ms. H. was to submit medical records to the Commission. Ms. H. failed to provide those records. However, over the following 18 months, no one raised that issue or brought the matter to Ms. H.'s attention.

The Commission favors adjudication of workers' compensation claims on their merits. While procedural rules are necessary and, on some occasions, a party's failure to comply with procedures and orders will justify sanctions, such sanctions should be used sparingly and only when

clearly necessary. Under the circumstances of this case, the Commission concludes that summary dismissal of Ms. H.'s claim is too harsh, particularly in light of a) the length of time that all participants allowed the claim to languish, and 2) the absence of notice that the medical records in question had not been submitted and opportunity to cure the oversight.

ORDER

The Commission hereby sets aside Judge Sessions' decision of March 30, 2005, and remands this matter to the Adjudication Division for further proceedings consistent with this decision.

Ms. H. is hereby ordered to submit the required medical records within 20 days of this decision. If she fails to do so, her application may be summarily dismissed.

Dated this 30th day of September, 2005.

R. Lee Ellertson, Commissioner